

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION

IN RE:)
)
STEPHEN TODD DALY,) CASE NO. 07-22372 JPK
) Chapter 7
Debtor.)

AMENDED ORDER FOR HEARING REGARDING
OBJECTION TO MOTION FOR TURNOVER

On January 23, 2008, the debtor, by counsel George R. Livarchik, filed his "Debtor's Objection to Trustee's Motion for Turnover". Contemporaneously filed with that objection was a Notice of Objection to Motion for Turnover. This notice seeks to turn the table on the Trustee by providing a "drop dead" period within which the Trustee must respond to the objection. Just where the debtor's counsel derived the concept of the use of a "drop dead" order for an objection to a turnover motion is eluding the Court – nowhere in the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, or the Rules of the United States Bankruptcy Court for the Northern District of Indiana is there an authorization for the utilization of this procedure. Over the last twelve months or so, the Court has noted a disconcerting tendency for attorneys to seek to employ a "drop dead" procedure with respect to a number of filings, none of which are subject to those procedures: this is just another in a number of those matters.

Fed.R.Bankr.P. 9011(b) provides that the presentation to the Court of any "paper" under the signature of an attorney certifies to the Court "that to the best of the person's knowledge, information and belief, formed after an inquiry reasonable under the circumstances, – " . . . that (2) the claims, defenses and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law." The Notice of Objection to Motion for Turnover is signed by Attorney George R. Livarchik, and that signature is subject to the requirements of Fed.R.Bankr.P. 9011. Fed.R.Bankr.P. 9011(c)(1)(B) allows the Court on its own initiative to

require an attorney to show cause why he has not violated subsection (b) of that rule, a provision which the Court now invokes.

IT IS ORDERED that a hearing will be held on **February 15, 2008 at 9:00 A.M.** at which Attorney George R. Livarchik will appear before the Court to show cause why sanctions should not be imposed upon him pursuant to Fed.R.Bankr.P. 9011 for the utilization of a procedure not in any manner authorized by any law or rule.

IT IS FURTHER ORDERED that a hearing on the debtor's objection to the Trustee's motion for turnover will be held in conjunction with the foregoing hearing.

Dated at Hammond, Indiana on February 4, 2008.

/s/ J. Philip Klingeberger
J. Philip Klingeberger, Judge
United States Bankruptcy Court

Distribution:
Debtor, Attorney for Debtor
Trustee, US Trustee